

1 BILL NO. S-89-10-25

2 SPECIAL ORDINANCE NO. S- 171-89

3 ORDINANCE AUTHORIZING THE CITY
4 OF FORT WAYNE TO ISSUE ITS
5 "ECONOMIC DEVELOPMENT REVENUE
6 BONDS, SERIES 1989 (MULLINIX
7 PACKAGES, INC. PROJECT)" AND
8 APPROVING OTHER ACTIONS IN
9 RESPECT THERETO.

10 WHEREAS, The Fort Wayne Economic Development
11 Commission has rendered its Project Report for the Mullinix
12 Packages, Inc. Project regarding the financing of proposed
13 economic development facilities for Mullinix Packages, Inc.
14 and the Fort Wayne Plan Commission has commented favorably
15 thereon; and

16 WHEREAS, the Fort Wayne Economic Development
17 Commission conducted a public hearing on October 19, 1989,
18 and also adopted a resolution on October 19, 1989, which
19 Resolution has been transmitted hereto, finding that the
20 financing of certain economic development facilities of
21 Mullinix Packages, Inc. complies with the purposes and
22 provisions of I.C. 36-7-11.9 and 12 and that such financing
23 will be of benefit to the health and welfare of the City of
24 Fort Wayne and its citizens; and

25 WHEREAS, the Fort Wayne Economic Development
26 Commission has heretofore approved and recommended the
27 adoption of this form of Ordinance by this Common Council,
28 has considered the issue of adverse competitive effect and
29 has approved the forms of and has transmitted for approval
30 by the Common Council the Loan Agreement, Mortgage, Security
31 Agreement and Financing Statement; Note; Trust Indenture;
32 Bond Purchase Agreement; Letter of Credit; and Official
Statement; now therefore,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, THAT:

SECTION 1. It is hereby found that the financing
of the economic development facilities referred to in the

1 Loan Agreement, Mortgage, Security Agreement and Financing
2 Statement approved by the For Wayne Economic Development
3 Commission and presented to this Common Council, the
4 issuance and sale of the Economic development Revenue Bonds,
5 series 1989 (Mullinix Packages, Inc. Project) (the "Bonds"),
6 the loan of the proceeds of the Bonds to Mullinix Packages,
7 Inc. for the acquisition and construction of such
8 facilities, the payment of the Bonds by the loan payments of
9 Mullinix Packages, Inc. under the Loan Agreement, Mortgage,
10 Security Agreement and Financing Statement and Note, and the
11 securing of said Bonds under the Trust Indenture, complies
12 with the purposes and provisions of I.C. 36-7-11.9 and 12,
13 and will be of benefit to the health and welfare of the City
14 of Fort Wayne and its citizens.

15 SECTION 2. The economic development facilities
16 will consist of the construction of an approximate 30,000
17 square foot addition to the Borrowers's existing
18 manufacturing facility, located at 3511 Engle Road, in the
19 City of Fort Wayne, Indiana, to be used in the manufacturing
20 of plastic containers (the "Project").

21 SECTION 3. At the public hearing held by the Fort
22 Wayne Economic Development Commission, the Commission
23 considered whether the economic development facilities would
24 have an adverse competitive effect on any similar facilities
25 located in or near the City of Fort Wayne, and found, based
26 on special findings of fact set forth in the Resolution
27 transmitted hereto, that the facilities would not have an
28 adverse competitive effect. This Common Council hereby
29 confirms the findings set forth in the Commission's
30 Resolution, and concludes that the economic development
31 facilities will not have an adverse competitive effect on
32 any other similar facilities in or near the City of Fort
Wayne, and the facilities will be of benefit to the health
and welfare of the citizens of the City of Fort Wayne.

SECTION 4. The substantially final forms of the Loan Agreement, Mortgager, Security Agreement and Financing Statement; Note; Trust Indenture; Bond Purchase Agreement; Official Statement; and Letter of Credit approved by the Fort Wayne Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk for public inspection.

SECTION 5. The City of Fort Wayne shall issue its Bonds in a total principal amount not to exceed Five Million Dollars (\$5,000,000) and with a final maturity of May 1, 2004. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of acquisition and construction of the economic development facilities as more particularly set out in the Trust Indenture and Loan Agreement, Mortgager, Security Agreement and Financing Statement incorporated herein by reference, which Bonds will be payable as to principal, premium, if any, and interest from the payments made by Mullnix Packages, Inc. under the Loan Agreement, Mortgage, Security Agreement and Financing Statement and Note or as otherwise provided in the above described Trust Indenture. The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiples thereof, and shall be redeemable as provided in Article V of the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America at the principal office of the Trustee or by check or draft mailed or delivered to the registered owners as provided in the Trust Indenture. The

1 Bonds shall never constitute a general obligation of, an
2 indebtedness of, or a charge against the general credit of
3 the City of Fort Wayne, Indiana, nor are the Bonds payable
4 in any manner from revenues raised by taxation.

5 SECTION 6. The Mayor and Clerk are authorized and
6 directed to sell the Bonds to the original purchaser thereof
7 at a price of not less than 98% of the principal amount
8 thereof, and at a rate of interest not to exceed 8% per
9 annum.

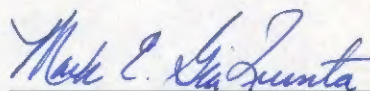
10 SECTION 7. The Mayor and Clerk are authorized and
11 directed to execute, attest, affix or imprint by any means
12 the City seal to the documents constituting the Financing
13 Agreement approved herein on behalf of the City and any
14 other document which may be necessary or desirable to
15 consummate the transaction, including the Bonds authorized
16 herein. The Mayor and Clerk are hereby expressly authorized
17 to approve any modifications or additions to the documents
18 constituting the Financing Agreement which take place after
19 the date of this Ordinance with the review and advice of the
20 City Attorney; it being the express understanding of this
21 Common Council that said Financing Agreement is in
22 substantially final form as of the date of this Ordinance.
23 the approval of said modifications or additions shall be
24 conclusively evidenced by the execution and attestation
25 thereof and the affixing of the seal thereto or the
26 imprinting of the seal thereon; provided, however, that no
27 such modification or addition shall change the maximum
28 principal amount of, interest rate on or term of the Bonds
29 as approved by the Common Council by this Ordinance without
30 further consideration by the Common Council. The signatures
31 of the Mayor and Clerk on the Bonds may be either manual or
32 facsimile signatures. The Clerk is authorized to arrange
for delivery of such Bonds to the Trustee named in the Trust
Indenture, and payment for the Bonds will be made to the

1 Trustee named in the Trust Indenture, and payment for the
2 Bonds will be made to the Trustee named in the Trust
3 Indenture and after such payment the Bonds will be delivered
4 by the Trustee to the purchasers thereof. The Mayor and
5 Clerk shall execute and the Clerk shall deliver the Bonds to
6 the Trustee within ninety days of the adoption of this
7 Ordinance. The Bonds shall be originally dated the date of
8 authentication and delivery thereof.

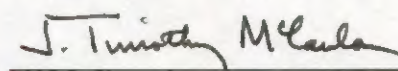
9 SECTION 8. The City hereby elects to issue the
10 Bonds pursuant to the \$10,000,000 small issue exemption set
11 out in Section 144(a)(4) of the Internal Revenue Code of
12 1986.

13 SECTION 9. The provisions of this Ordinance and
14 the Trust Indenture securing the Bonds shall constitute a
15 contract binding between the City of Fort Wayne and the
16 holder of the Bonds, and after the issuance of said Bonds,
17 this Ordinance shall not be repealed or amended in any
18 respect which would adversely affect the rights of such
19 holders so long as any of said Bonds or the interest thereon
20 remains unpaid.

21 SECTION 10. This Ordinance shall be in full force
22 and effect from and after its passage and signing by the
23 Mayor.

24 
25 Mark E. La Junta
26 Councilmember

27 APPROVED AS TO FORM
28 AND LEGALITY

29 
30 J. Timothy McCaulay City Attorney
31
32

Read the first time in full and on motion by GiaQuinta, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 10-24-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by GiaQuinta, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>5</u>			<u>4</u>
BRADBURY				<u>✓</u>
BURNS				<u>✓</u>
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY				<u>✓</u>
LONG	<u>✓</u>			
REDD				<u>✓</u>
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 11-11-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. S-171-89 on the 11th day of November, 1989,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel L. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of November, 1989, at the hour of 9:00 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11th day of Nov, 1989, at the hour of 9:10 o'clock A. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE ORDINANCE

J. 89-10-25

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT

SYNOPSIS OF ORDINANCE ALLOWS THE ISSUANCE AND SALE OF \$5,000,000

ECONOMIC DEVELOPMENT REVENUE BONDS OF THE CITY OF FORT WAYNE,

INDIANA TO MULLINIX PACKAGES, INC. PROJECT

EFFECT OF PASSAGE AUTHORIZES THE ISSUANCE OF \$5,000,000 Economic

Development Revenue Bonds of Mullinix Packages, Inc. Project

EFFECT OF NON-PASSAGE Project cannot be completed

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-89-10-25

REPORT OF THE COMMITTEE ON FINANCE

MARK E. GIAQUINTA, CHAIRMAN
THOMAS C. HENRY, VICE CHAIRMAN
BRADBURY, SCHMIDT, BURNS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ XXXXXXXXXX AUTHORIZING THE CITY
OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS,
SERIES 1989 (MULLINIX PACKAGES, INC. PROJECT)" AND
APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) ~~(RESOLUTION)~~

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Mark E. Giaquinta

Janet H. Bradbury

D. Schmidt

Tom Burns

DATED: 11-11-89.

Sandra E. Kennedy
City Clerk